

DRAFT MINUTES
STATE HUMAN RIGHTS COMMITTEE

Friday, December 10, 2010
Piedmont Geriatric Hospital
Auditorium
5001 E. Patrick Henry Highway
Burkeville, Virginia
23922

Sub-Committee to Review LHRC Structure

Members Present Christina Delzingaro, **Chair**

At 8:00 the Sub-Committee to Review LHRC Structure met and discussed proposed changes to the human rights system.

Administrative Session

Members Present Christina Delzingaro, **Chair**, Randy Johnsey, **Vice-Chair**, T.C. Bullock, Carolyn DeVilbiss, Donald Lyons, Joseph Lynch, Jannie Robinson,

Members Not Present Frank Royal

Members Excused Penny Cameron

Staff Margaret Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Karen DeSousa, DBHDS Special Counsel
Deb Lochart, Regional Human Rights Advocate, Region 2
Michael Curseen, Human Rights Manager, Region 4 and Central State Hospital
Beverly W. Garnes, Human Rights Manager, Region 4 and Southside Virginia Training Center
Carrie Flowers, Human Rights Advocate
Buddy Small, Human Rights Advocate
Dick Roberts, Eastern State Hospital

Others Paul J. Buckley, Managing Attorney, VOPA
Erin Haw, Disability Rights Advocate, VOPA
Josephene Johnsey, Interested Person

Call to Order and Welcome *At 8:35 Christina Delzingaro, called the administrative meeting to order. A call for introductions took place prior to proceeding.*

**Approval of
December 10, 2010
Agenda**

At 8:36 upon a motion by TC Bullock and seconded by Randy Johnsey the SHRC unanimously approved the agenda for the December 10, 2010 meeting.

**SHRC Goals
Worksheet**

At 8:37 the SHRC reviewed the SHRC Goals Worksheet.

**Sub-Committee
Reports**

Communications

At 8:41 Carolyn DeVilbiss provided an update on the activities of the Communications Committee.

Health Care Providers

At 8:43 Christina Delzingaro informed the SHRC that the Health Care Providers Committee would include its recommendations within the recommendations of the LHRC Structure Committee.

2011 Meeting
Schedule

At 8:44 the SHRC reviewed the Draft 2011 SHRC Meeting Schedule.

Upon a motion by Randy Johnsey and seconded by TC Bullock the SHRC approved the dates of the 2011 SHRC meeting Schedule.

Correspondence

8:52 the SHRC reviewed correspondence received since last SHRC meeting.

Frank Tetrick

At 8:52 Margaret Walsh announced that Frank Tetrick, Assistant Commissioner, Division of Quality Management and Development, will retire at the end of the calendar year.

Rebecca Currin

At 8:54 Margaret Walsh reviewed a letter from Rebecca Currin, VOPA, regarding timely transfer of patients and barriers to transfer. The SHRC will invite the new director of Eastern State Hospital to the next SHRC meeting to follow-up with this issue.

CSH LHRC

At 8:57 the SHRC received a copy of the thank you letter sent to Central State Hospital LHRC for agreeing to serve as the local committee for Virginia Center for Behavioral Rehabilitation.

The Human Rights Office has received approval from Commissioner Stewart to go back to sending complaints to an Appeals Review Panel rather than utilizing a local human rights committee.

PGH LHRC

At 8:59 the SHRC acknowledged receipt of a request for extension of

timeframe for a hearing.

Appeal Findings

At 9:00 the SHRC reviewed copies of appeal findings and recommendations from Eastern State Hospital and Va Center for Behavioral Rehabilitation.

Loudoun LHRC

At 9:05 the SHRC reviewed a letter from Loudoun LHRC regarding membership and the definition of Health Care Provider. The SHRC will send a letter to Loudoun LHRC assuring them that the SHRC sub-committee on health care providers is working on this issue.

BREAK

At 9:13 Christina Delzingaro called for a break until 9:20

Regular Session

Members Present

Christina Delzingaro, **Chair**, Randy Johnsey, **Vice-Chair**, T.C. Bullock, Carolyn DeVilbiss, Donald Lyons, Joseph Lynch, Jannie Robinson, Frank Royal

Members Excused

Penny Cameron

Staff

Alfreda Chulkley, HSCW, Piedmont Geriatric Hospital
Chuck Collins, Regional Human Rights Advocate
Michael Curseen, Human Rights Manager, Region 4 and Central State Hospital
Karen DeSousa, DBHDS Special Counsel
Carrie Flowers, Human Rights Advocate
Beverly W. Garnes, Human Rights Manager, Region 4 and Southside Virginia Training Center
Dr. Stephen M. Herrick Director, Piedmont Geriatric Hospital
Kli Kinzie, Executive Secretary
Deb Lochart, Regional Human Rights Advocate, Region 2
Sherry Miles, Regional Human Rights Advocate
Dick Roberts, Resident Relations Liaison and Resident Safety Coordinator, Eastern State Hospital
Buddy Small, Human Rights Advocate
Margaret Walsh, State Human Rights Director

Others

Lucius Alford, Administrator, Life Touch Services
Ann Benner, VOCAL
Paul J. Buckley, Managing Attorney, VOPA
Erin Haw, Disability Rights Advocate, VOPA
Josephene Johnsey, Interested Person
Elizabeth Fisher Nagji, Disability Rights Advocate, VOPA
Sultan M. Niazy, Piedmont Geriatric Hospital

Kia Roquemare, Quality Assurance, Life Touch Services
Mark Stevens, Disability Rights Advocate, VOPA

Present via Telecom

Stewart Prost, Human Rights Advocate
J.R., Patient, Eastern State Hospital

**Call to Order and
Introductions**

At 9:20 Christina Delzingaro called the December 10, 2010, SHRC meeting to order. A call for introductions took place prior to proceeding.

Welcome

At 9:22 Dr. Stephen M. Herrick, Facility Director, Piedmont Geriatric Hospital welcomed the SHRC.

Public Comment

At 9:30 Christina Delzingaro called for Public Comments. There were no public comments.

**Speaker
VOCAL: Peer
Support Programs**

At 9:30 the SHRC heard a presentation by Ms. Ann Benner of VOCAL, a consumer run state-wide peer support program.

MINUTES

Upon a motion by Joseph Lynch and seconded by Carolyn DeVilbiss the SHRC unanimously approved the minutes of the October 29 2010, SHRC meeting.

Appeal (polycom)
Eastern State Hospital
v J.R.

At 10:00 the SHRC heard the Appeal of Eastern State Hospital in the case of J.R. This case came before the SHRC appeal of the decision of the Eastern State Hospital (ESH) Local Human Rights Committee (LHRC) following a fact finding hearing that took place on September 16, 2010. Mr. Dick Roberts presented the case on behalf of Eastern State Hospital. Mr. Stewart Prost, human rights advocate, assisted J.R. with the presentation of the case. Members present were Christina Delzingaro, Chair, Randy Johnsey, Vice-Chair, Donald Lyons, Joseph Lynch, Jannie Robinson, Dr. Frank Royal, Thomas C. Bullock and Carolyn M. DeVilbiss.

Eastern State Hospital brought forward this appeal stating that: 1) The documentation of the findings and recommendations of the ESH LHRC do not appear to follow the Rules and Regulations as cited in 12 VAC 35-115-180 *Local Human Rights Committee hearing and review procedures*. It is unclear as to what facts the findings are based on; and 2) The memo does list each witness with a two or three sentence summary of their testimony. There is no listing of the facts that support the findings and recommendations.

Upon a motion by Joseph Lynch and seconded by Randy Johnsey the

SHRC unanimously determines that a procedural error occurred when the ESH LHRC decision failed to include the facts to support its findings and recommendations. The SHRC is returning this case back to ESH LHRC for additional information regarding the “facts” used to support its decisions and recommendations.

Appeal

Eastern State Hospital
v R.H. (VOPA)

At 10:15 the SHRC heard the Appeal of VOPA on behalf of R.H. v. Eastern State Hospital. This case came before the SHRC on appeal of the decision of the Eastern State Hospital (ESH) Local Human Rights Committee (LHRC) following a fact finding hearing that took place on October 21, 2010. Mr. Mark Stevens, Disability Rights Advocate, Virginia Office of Protection and Advocacy (VOPA), presented the case on behalf of R.H. Mr. Dick Roberts represented Eastern State Hospital. Members present were Christina Delzingaro, Randy Johnsey, Donald Lyons, Joseph Lynch, Jannie Robinson, Dr. Frank Royal, Thomas C. Bullock and Carolyn M. DeVilbiss. At RH’s request the hearing was held in open session.

R.H. and his authorized representative are dissatisfied with the LHRC’s findings with regard to the Department of Behavioral Health and Development Services (DBHDS) and ESH’s violation of his rights, specifically with regards to the following:

12 VAC 35-115-50. Dignity.

...be protected from harm, including abuse, neglect and exploitation

12 VAC 35-115-100. Restrictions on freedoms of everyday life.

...from admission until discharge from a service, each individual is entitled to:...”received services in that setting and under those conditions that are least restrictive of his freedom.”

12 VAC 35-115-60. Services.

...providers duties:... “Preparation and Implementation of an individual’s discharge plan.”

Upon a motion by Joseph Lynch and seconded by Frank Royal the SHRC unanimously upholds all of the decisions of the ESH LHRC in this case.

While the SHRC found no specific violation against ESH, the SHRC believes that this case may indeed have significant system wide application. As such, the SHRC plans to identify and review similar cases on the discharge ready list and take action based upon the results of that review.

Sub-Committee to

At 11:12 Christina Delzingaro reported on activities of the SHRC

**Review LHRC
Structure Report**

subcommittee on LHRC Structure. The sub-committee on LHRC Structure asked that the SHRC appoint a sub-committee to develop and review the planned revisions to the human rights regulations that involve changes to LHRC structure and function.

Upon a motion by Frank Royal and seconded by Randy Johnsey the SHRC unanimously voted to appoint a sub-committee to develop and review the planned revisions to the human rights regulations that involve changes to LHRC structure and function.

The Office of Human Rights developed a table for tracking LHRC vacancies, which the human rights advocates will keep up to date. The SHRC will review this tracking sheet at its regularly scheduled meetings.

New affiliation agreements will be developed and the LHRCs Bylaws will need to be reviewed to include the new standard. The target date for new Bylaws adoption for all LHRCs is June 2011.

**Bylaws
Loudoun County
LHRC**

At 11:45 t Chuck Collins, Regional Human Rights Advocate, presented revised Bylaws for Loudoun LHRC.

Upon motion by Randy Johnsey and seconded by Joseph Lynch the SHRC unanimously voted to approve the revised Bylaws for Loudoun LHRC. The Bylaws will be revised again in June to include the planned changes to Affiliation Agreements.

**LHRC Meeting
Attendance
Reporting**

At 11:48 SHRC members reported on LHRC meetings in their areas.

TC Bullock attended Southside LHRC meeting on November 1. There were about 14 providers present and all current members of the LHRC were present. Mr. Bullock reported that the LHRC meeting was well-run. The LHRC is currently recruiting to fill its vacant consumer position.

Carolyn DeVilbiss reported that she and Penny Cameron attended a meeting of the NOVA Hospitals LHRC in October. The LHRC serves hospitals providing psychiatric services in Northern Virginia. This is a small LHRC consisting of 5 members, 3 of whom were present for the meeting. The LHRC is nonetheless very active. They use a reporting grid that tracks reports from various affiliates. Ms. DeVilbiss said the hospitals are very diligent in following the outlines

of the LHRC.

Ms. DeVilbiss said that the LHRC appreciated the overview she gave them on activities of the SHRC, especially as she related how the SHRC activities tie-in to LHRC activities. The NOVA Hospitals LHRC is looking closely at understanding the role of Authorized Representatives, particularly when there is a dispute between the consumer's wishes and what the AR approves.

Ms. DeVilbiss talked with the NOVA Hospitals LHRC about the efforts of the Communications sub-committee to enhance communication between the LHRCs and the SHRC. The LHRC said they really missed the regional meetings during which the Chairs of several LHRCs would meet and discuss various issues. In terms of electronic communiqués, some LHRC members would like a chat room established so LHRC members can communicate directly with each other about various issues.

Carolyn DeVilbiss reported also that she and Penny Cameron attended a meeting of the Fairfax-Falls Church LHRC. That LHRC is very active and Ms. DeVilbiss noted that they do currently have a consumer member. During that meeting, four providers came before the LHRC and presented their annual reports. This is a very organized committee. They sent Ms. DeVilbiss a list of what they wanted her to be prepared to discuss.

Carolyn DeVilbiss reported that Penny Cameron had asked Fairfax-Falls Church LHRC about the Health Care Provider requirement. The LHRC would really like to have a nurse on the committee, or someone who understands medications and psychiatric medications.

Carolyn DeVilbiss expressed concerns of the LHRC that there seems to be no funding available for the van program to transport consumers.

In closing, Carolyn DeVilbiss encourages SHRC members to attend LHRC meetings.

LHRC Membership

At 12:00 upon a motion by Randy Johnsey and seconded by TC Bullock the SHRC convened in closed session pursuant to Virginia Code §2.2-3711(1) for the purpose of discussion and consideration of appointments to and removals from Local Human Rights Committees.

Upon reconvening in open session, the State Human Rights Committee certified that to the best of each member's knowledge, only

public business matters lawfully exempt from statutory open meeting requirements, and only public business matters identified in the motion to convene the closed session were discussed in closed session.

Resignation

Upon a motion by Frank Royal and seconded by Donald Lyons the SHRC unanimously acknowledged the resignation of Chris Harrison from Fairfax-Falls Church LHRC and voted to make the following appointments.

Appointments:

Region 1

Rockbridge Area CSB LHRC

Appoint: Ms. Nicole King

Rappahannock-Rapidan CSB LHRC

Appoint: Ms. Beverly Young

Commonwealth Center for Children & Adolescents LHRC

Appoint: Ms. Jennifer Hatter

Region 2

Fairfax-Falls Church LHRC

Appoint: Ms. Louise Evertt

Fredericksburg Area LHRC

Appoint: Ms. Jill Payne

Region 3

New River Valley LHRC

Appoint: Ms. Sheena Pickett, Ms. Vickie Linkous

Region 4

Commonwealth LHRC

Reappoint: Mr. Donald Thompson, Ms. Anika Allen

ANUE LHRC

Reappoint: Mr. Leonard P. Wiley, II

Chester Regional LHRC

Reappoint: Mr. Gregory Hopkins, Ms. Danielle Hunt

Richmond Unified LHRC

Appoint: Ms. Thomila H. Wilson

Region 5

Hampton Regional LHRC

Appoint: Ms. Maria Fuentes

Colonial Regional LHRC

Appoint: Dr. Artara Bradley

Bay Area Regional LHRC

Appoint: Ms. Constance Dailey-Hollands

Region 6

Heartland Regional LHRC

Appoint: James L. Fisher

BREAK FOR LUNCH At 12:15 Christina Delzingaro called for a break for Lunch.

Human Rights Training At 12:32 Margaret Walsh provided orientation training on the human rights regulations for SHRC members.

Adjournment *At 1:07 upon a motion by Randy Johnsey and seconded by Frank Royal the December 10, 2010 SHRC meeting adjourned.*

The next SHRC meeting will be held on January 21, 2011, at Williamsville Wellness, LLC, in Hanover, Virginia.

Respectfully Submitted:

Christina Delzingaro, Chair

Kli Kinzie, Secretary